

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GORDA DUNIGAN, as Personal Representative
for the Estate of JAMES DUNIGAN, Deceased,

Plaintiff,

v

BRONSON METHODIST HOSPITAL,

Defendant.

Case No. 1:16-CV-01324

Hon. Janet T. Neff

Mag. Judge Ellen S. Carmody

GEOFFREY N. FIEGER (P30441)
JAMES J. HARRINGTON, IV (P65351)
Fieger, Fieger, Kenney & Harrington, P.C.
Attorneys for Plaintiff
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Southfield, MI 48075
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JOHN C. O'LOUGHLIN (P33343)
Smith, Haughey, Rice & Roegge
Attorney for Defendant, Bronson
100 Monroe Center NW
Grand Rapids, MI 49503
(616) 774-8000

**PLAINTIFF'S MOTION TO APPROVE CONFIDENTIAL SETTLEMENT
PROCEEDS AND DISTRIBUTION OF PROCEEDS TO THE
ESTATE OF JAMES DUNIGAN, DECEASED**

NOW COMES, Plaintiff, GORDA DUNIGAN, as Personal Representative for the Estate of JAMES DUNIGAN, Deceased, by and through counsel, Fieger, Fieger, Kenney & Harrington, P.C., in support of her Confidential Motion to Approve Settlement Proceeds and Distribution of Proceeds to the Estate of James Dunigan, Deceased, hereby states as follows:

1. This is a 42 U.S.C.A §1395dd(b), Emergency Medical Treatment and Active Labor Act (EMTALA) claim where in Defendant Bronson Methodist Hospital failed to stabilize Mr. Dunigan, who was suffering from an emergency medical condition,

prior to transferring him, within the meaning of the act. Mr. Dunigan was dragged into a patrol car and taken to jail, where he died en route.

2. James Dunigan's sister, Gorda Dunigan, was appointed Personal Representative to the Estate of James Dunigan, Deceased, on September 6, 2016, by the Wayne County Probate Court. **(Exhibit 1 – Letters of Authority).**

3. Notice of this hearing has been given to all legal heirs. **(Exhibit 2-Waiver/Consents Directed to Heirs).**

4. That extensive discovery was exchanged between the parties, numerous depositions were taken, Facilitation was conducted and, at a Court Ordered Settlement Conference, the parties were able to come to an agreement for a full settlement of any claims that the Estate of James Dunigan, Deceased, has against Bronson Methodist Hospital, only, for the May 6, 2016, incident, in the amount of [REDACTED].

5. Plaintiff seeks approval of the [REDACTED] settlement from this Court, as it is in the best interest of the Estate of James Dunigan, Deceased, representing a full and final settlement against Defendant, Bronson Methodist Hospital for payment of Damages, and Attorney Fees and Costs.

6. Plaintiff further seeks authority from this Court to effectuate the [REDACTED] Settlement and to distribute the settlement proceeds in the following manner:

FIEGER LAW • A PROFESSIONAL CORPORATION • ATTORNEYS AND COUNSELORS AT LAW • 19390 WEST TEN MILE ROAD • SOUTHFIELD, MICHIGAN 48075-2463 • TELEPHONE (248) 355-5555 • FAX (248) 355-5148

- a. ¹ [REDACTED] payable to Fieger, Fieger, Kenney and Harrington, P.C., said sum representing reimbursement for attorney costs expended in this matter;
- b. [REDACTED] payable to Fieger, Fieger, Kenney and Harrington, P.C., said sum representing attorney fees payable pursuant to the contingency fee and agreement between Fieger, Fieger, Kenney and Harrington, P.C. and Plaintiff.
- c. [REDACTED] payable to the Law Offices of Howard Linden, P.C., for their portion of attorney work done for the probate estate;
- d. The balance of the net proceeds of [REDACTED]

[REDACTED] will be distributed to the Estate of James Dunigan, Deceased, for conscious pain and suffering, as follows:

- i. **Gorda Dunigan** (Sister/PR).....\$ [REDACTED]
- ii. **James Dunigan** (Father).....\$ [REDACTED]
- iii. **Anthony Dunigan** (Brother).....\$ [REDACTED]
- iv. **Steven Dunigan** (Brother).....\$ [REDACTED]
- v. **Robert Dunigan** (Brother).....\$ [REDACTED]
- vi. **Quincy Lamar Dunigan** (Brother).....\$ [REDACTED]
- vii. **Auturia Dunigan** (Brother).....\$ [REDACTED]

7. All funeral and burial costs have been paid.

¹ [REDACTED]

8. The above statements are true to the best of Plaintiff's knowledge and belief.

9. That the proposed Order approving the settlement and distribution as outlined above is attached as **Exhibit 3**.

WHEREFORE, Plaintiff respectfully requests this Court approve the settlement, grant authority to effectuate the settlement and approve the distribution of settlement proceeds as it is in the best interest of the Estate.

Respectfully submitted,

/s/James J. Harrington, IV

Geoffrey N. Fieger (P-30441)

James J. Harrington, IV (P-65351)

Attorneys for Plaintiff

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Southfield, MI 48075

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Dated: December 4, 2018

Certificate of Service

James J. Harrington, IV, hereby certifies on December 4, 2018, she caused a copy of this document to be served upon all parties of record, and that such service was made electronically upon each counsel of record so registered with the CM/ECF File & Serve System.

/s/ James J. Harrington, IV, Esq.

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**BRIEF IN SUPPORT OF THE CONFIDENTIAL MOTION TO APPROVE
SETTLEMENT PROCEEDS AND DISTRIBUTION OF PROCEEDS TO THE
ESTATE OF JAMES DUNIGAN, DECEASED**

Plaintiff hereby relies upon MCL 700.3924(2) in support of her Confidential Motion to Approve Settlement Proceeds and Distribution of Proceeds to the Estate of James Dunigan, Deceased.

Respectfully submitted,

/s/James J. Harrington, IV
Geoffrey N. Fieger (P-30441)
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